IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 840 of 2005

1. **Bhuwan Chandra S/o Jagannath**
   R/o Village-Kimari
   At present near Mosta Mandir Patti
   P.S. and Tehsil Pati, Distt. Champawat
2. **Man Mohan S/o Dan Singh**
   R/o village Raulmail
   At Present at Pati
   P.S. and Tehsil Pati, District Champawat
3. **Rajendra Singh S/o Daleep Singh**
   R/o Village Pati, P.S. and Tehsil Pati
   District Champawat.
4. **Bhuwan Chandra**
   R/o Village Lara Patwari Kshetra Pati
   P.S. and Tehsil Pati, Distt. Champawat.

….Applicants.

Vs.

1. **State of Uttaranchal**
2. **Sessions Judge, Champawat**
3. **Judicial Magistrate, Champawat**
4. **Rami Ram, S/o Shri Heera Ram**
   R/o Village Koor, Patwari Kshetra Bhumwari
   Tehsil Pati, Distt. Champawat.

…Respondents.

Shri M.C. Pande, learned counsel for the applicants.
Learned Government Advocate for respondent No. 1 to 3.

Hon'ble Prafulla C. Pant, J.

1. This is a petition, moved under Section 482 of code of Criminal Procedure, 1973, by the petitioners for quashing the charge sheet-Annexure 1 and criminal proceedings arising out thereof under Section 3(1) (X) S.C. and S.T. (Prevention of Atrocities) Act, 1989, read with Sections 504, 506 of I.P.C.

2. Heard learned counsel for the applicants and learned A.G.A.

3. It is argued on behalf of the petitioners that they are innocent and have falsely been implicated by the respondent No. 4 to humiliate them. Since after investigation, charge sheet has been filed and it is for the trial court to examine after recording the evidence if the charge is proved or not. Even before that at the time of framing of the charge, the petitioners are at liberty to show if the offences are not made out against them. It is not just and proper on the part of this Court to appreciate the half baked evidence to quash the charge sheet. Learned counsel for the petitioners also drew my attention to Annexure No. S.A.-1 to Supplementary Affidavit, which is a copy of the report of the District Magistrate, Champawat addressed to Secretary, Uttaranchal S.C. and S.T. Commission, Dehradun, which includes following report:-

''.....द्वितीय समिति को 120 बैग सीमेन्ट उपलब्ध कराकर कार्य शुरू करने हेतु कहा गया। विभाग द्वारा बिना वास्तविकता की जॉच करे तथा बिना कार्य विभाजन किये कार्य शुरू करने के निर्देश देना औचित्यहीन पाया गया तथा इसी कारण योजना में विवाद हुआ। दोनों समितियों द्वारा इच्छानुसार कार्य शुरू कर दिया गया, विभाग का तकनीकी मार्ग दर्शन भी नहीं लिया गया।

प्रश्नगत गूल के अन्तर्गत आने वाली भूमि में ग्राम कूण, भुम्वाणी, मैराली, लड़ा, रोलमेल के अनुसूचित जाति तथा सवर्ण जाति के लोग सहखातेदार के रूप में दर्ज है। भूमि के कलमी बंटवारे नहीं हुए है। भूमि मौके पर बंजर है कोई आवास तथा खेती नहीं है।.....

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लघु सिंचाई विभाग द्वारा गूल निर्माण हेतु शासनादेश के अनुसार प्रक्रिया नहीं अपानायी गयी है। विवाद को हल किये जाने हेतु सिंचाई कमाण्ड एरिया के सभी कास्तकारों की एक समिति सम्बन्धित अधिकारियों की उपस्थिति में ग्राम सभा की खुली बैठन में समिति के प्राधिकारियों का चुनाव बहुमत के आधार पर कियो जाने हेतु संबंधित विभाग को आवश्यक निर्देश दिये गये है।''

The above fact can also be appreciated by the trial court when the petitioners filed it in defense.

4. For the reasons as discussed above, this Court is not inclined to interfere with the impugned criminal proceedings. Accordingly, the petition is dismissed. However, it is directed that if the petitioners surrender before the court concerned and move bail applicant, the same be disposed of without unnecessary delay.

(Prafulla C. Pant, J.)

Dt: 21.12.2005

Sweta